

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MICROSOFT CORPORATION,
Plaintiff,
v.
COREL CORPORATION, et al.,
Defendants.

Case No. 5:15-cv-05836-EJD

**ORDER DENYING COREL'S MOTION
FOR PARTIAL SUMMARY
JUDGMENT ON THE DEFENSE OF
EXPRESS LICENSE**

Re: Dkt. Nos. 49

Plaintiff Microsoft Corp. sued Defendants Corel Corp. and Corel Inc. (together, “Corel”) for infringement of multiple software patents. Before the Court is Corel’s partial motion for summary judgment on the defense of express license to Microsoft’s claim that Corel infringed U.S. Patent No. 5,510,980 (the “‘980 patent”) under 35 U.S.C. § 271. Dkt. No. 49. Corel’s motion will be DENIED.

1. BACKGROUND

Case No.: [5:15-cv-05836-EJD](#)
ORDER DENYING COREL'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON THE
DEFENSE OF EXPRESS LICENSE

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B. The Utah Case

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In 2015, Corel Software, LLC sued Microsoft for patent infringement in Utah. Corel Software, LLC. v. Microsoft Corp., No. 2:15-cv-00528-JNP-PWM (D. Utah July 27, 2015). Corel Software, LLC is a separate legal entity from the two defendants in this case—Corel Corp. and Corel Inc.—and [REDACTED]. MSJ at 8. However, all three entities—Corel Corp., Corel Inc., and Corel Software, LLC—are owned by Vector Capital, a private-equity firm. Id. Vector Capital acquired Corel Corp. and Corel Inc. in 2003. Corel’s Reply in Support of Motion for Partial Summary Judgment on Defense of Express License (“Reply”) at 2, Dkt. No. 67.

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C. This Case

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Microsoft filed this case on December 19, 2015, alleging that Corel infringed nine patents relating to graphical user interfaces in software applications. Complaint ¶¶ 1–2, Dkt. No. 1. On May 23, 2016, Corel moved to amend its answer to add a defense of express license to Microsoft’s claim that Corel infringed the ’980 patent. Dkt. No. 47. On May 23, Corel moved for summary judgment on this defense. Dkt. No. 49.

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II. LEGAL STANDARD

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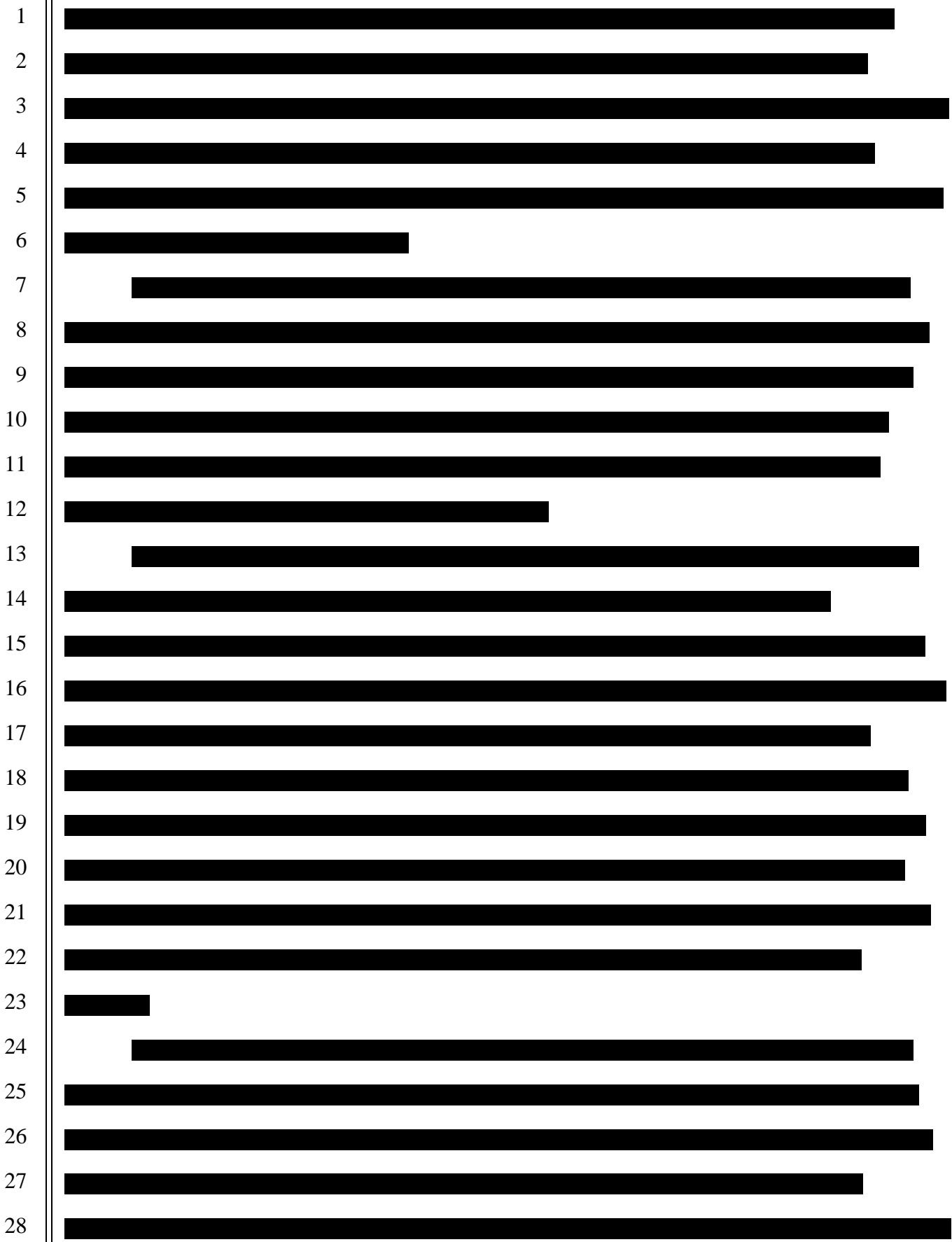
“Summary judgment is proper where no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law.” Samuels v. Holland American Line—USA Inc., 656 F.3d 948, 952 (9th Cir. 2011) (citing Fed. R. Civ. P. 56(a)). The Court “must draw all reasonable inferences in favor of the nonmoving party.” Id. “The central issue is ‘whether the evidence presents a sufficient disagreement to require submission to a jury or whether it is so one-sided that one party must prevail as a matter of law.’” Id. (quoting Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 251–52 (1986)).

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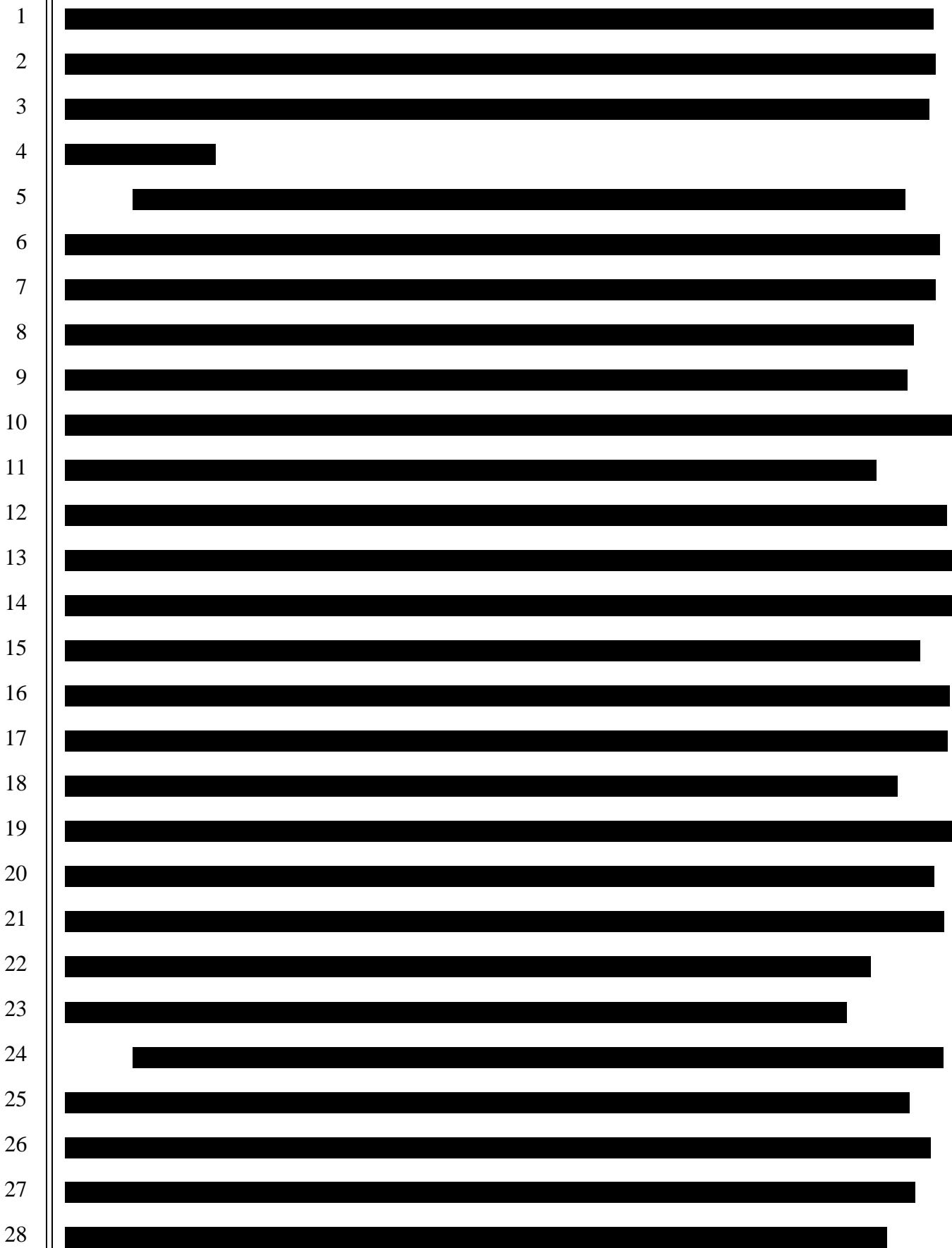
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United States District Court
Northern District of California



United States District Court
Northern District of California



United States District Court
Northern District of California

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7 **C. Microsoft's Request for Further Discovery**

8 Microsoft requested permission to conduct "more discovery into the details of Vector
9 Capital's acquisition of Corel and Corel's corporate structure" to gather evidence in support of its
10 argument that [REDACTED]
11 [REDACTED]. In light of Microsoft's recently submitted evidence² and the discussion
12 above, the Court denies Microsoft's request as moot.

13 **IV. CONCLUSION**

14 The Court finds that [REDACTED]
15 [REDACTED] Corel's motion for partial
16 summary judgment is DENIED.

17 **IT IS SO ORDERED.**

18 Dated: January 12, 2017

19 [Signature of Edward J. Davila]
20 EDWARD J. DAVILA
21 United States District Judge

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25 ² On December 30, 2016, Microsoft moved for leave to submit recently acquired evidence
26 regarding Corel's MSJ. Dkt. No. 143. Microsoft's new evidence consists of deposition testimony
27 by Corel's Rule 30(b)(6) representative and Chief Financial Officer; a managing director of
Vector Capital who is also a member of Corel's board; and Vector Capital's Vice President for
Tax. The testimony contains information about Corel's corporate structure and Vector Capital's
involvement. On January 9, 2017, Corel moved for leave to submit recently acquired rebuttal
evidence consisting of Corel Corp.'s SEC Form 10-K statements for fiscal years 2006, 2007, and
28 2008. Dkt. No. 149.